

SENATE GENERAL WELFARE COMMITTEE AMENDMENT 1

AMENDMENT NO. _____

Signature of Sponsor

FILED

Date _____

Time _____

Clerk _____

Comm. Amdt. _____

AMEND Senate Bill No. 2411*

House Bill No. 2842

by deleting Section 1 through 6 in their entirety and substituting therefore the following
amendatory language:

SECTION 1. The general assembly finds that:

(a) Long-term care for the elderly and disabled faces a deepening crisis. The elderly population is increasing and will soon increase dramatically. Across the nation, approximately one (1) in every eight (8) persons was elderly in 1994. By the year 2030, however, one (1) in (5) will be elderly. Conditions which necessitate long-term care occur most frequently among the elderly, but are increasing among Tennesseans of all ages.

(b) Tennessee's existing system of long-term care is a patchwork of services, with nursing homes being the primary place for long-term care services.

(c) Tennesseans want to live at home and be independent, and Tennessee families want to care for frail loved ones at home, for as long as that is possible.

(d) Public funding for long-term care should afford Tennesseans who are in need a choice of a broad array of home and community-based services, and should not be limited to institutional care.

(e) Public policy should promote the availability of long-term care services that enhance independence, dignity and privacy; and

(f) Tennessee should develop and implement a comprehensive long-term care system responsive to the needs of all Tennesseans regardless of age, disability or economic status.

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(g) Tennessee shall develop a Long Term Care Services plan, which shall be a comprehensive plan to guide the future funding, coordination and delivery of long-term care services (with the exception of institutional nursing home services) in the state. The plan should include, but not be limited to, the submission by the state of an application for home and community based services (HCBS) waiver, also known as a Section 1915(c) waiver under P.L. 97-35, the Omnibus Budget Reconciliation Act of 1981, to the health care financing administration (HCFA). The Section 1915(c) waiver shall allow the state to utilize available state funds to draw down federal Medicaid funds in order to serve low income nursing home eligible individuals, who have been pre-admission evaluation (PAE) approved by the department of health, in HCBS settings.

SECTION 2. Tennessee Code Annotated, Section 71-5-107, is amended by adding to clause (a)(21), after the phrase "medical assistance" the phrase "and home-and-community-based services to those eligible being served through a HCFA approved waiver".

SECTION 3. Tennessee Code Annotated, Section 71-5-103, is amended by adding to the section the following appropriately designated subsection:

() "Home-and community-based services" means any of the following supportive services and systems, as approved by HCFA, which are provided to older persons and individuals with disabilities to remain independent and avoid inappropriate institutionalization and which help individuals maintain physical, social, and spiritual independence in the least restrictive environment.

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(1) living environments and supportive services (assisted care living facilities, homes for the aged and assistive technology);

(2) personal care, homemaker and chore services;

(3) adult day services;

(4) congregate and home delivered meals;

(5) home care organizations;

(6) rehabilitative care;

(7) assisted transportation or mobility services; and

(8) support services to caregivers, including hospice and respite care.

SECTION 4. (a) The commissioner of health, the commissioner of finance and administration, the commissioner of human services and the executive director of the commission on aging, shall constitute a Long Term Care Services Planning Council to formulate the Tennessee Long-Term Care Services Plan which shall be a comprehensive plan to guide the future funding, coordination and delivery of long-term care services in Tennessee. The commissioner of health shall serve as chair and convenor of the committee. The plan shall be submitted by the governor to the members of the general assembly by January 1, 1999.

(b) There is hereby created a Long-Term Care Services Advisory Council which shall convene not later than July 1, 1998 at the call of the commissioner of health and shall be composed of eleven (11) members appointed by the governor as follows:

(1) One (1) representative of the American Association of Retired

Persons;

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(2) One (1) representative of the Tennessee Association of Area

Agencies on Aging;

(3) One (1) representative of the Tennessee Association for Home Care;

(4) One (1) representative of the Tennessee Association of Homes and

Services for the Aging;

(5) One (1) representative of the Tennessee Chapters of the Alzheimer's

Association;

(6) One (1) representative of the Tennessee Conference on Social

Welfare;

(7) One (1) representative of the Tennessee Disability Coalition;

(8) One (1) representative of the Tennessee Health Care Association;

and

(9) One (1) representative of the nursing home industry.

(10) One (1) representative of business in an unrelated industry.

(11) One (1) other representative at-large representing the general public.

(c) The members of the Long-Term Care Services Advisory Council shall serve without compensation or reimbursement for travel expenses from the state.

(d) Duties and responsibilities of the Long-Term Care Services Advisory Council shall be to:

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(1) Assist in the formulation of a comprehensive and detailed plan to guide the future funding, coordination and delivery of long-term care services in Tennessee, including establishment of specific standards of care;

(2) Review a Long-term Care Services Plan for the State of Tennessee which is to be submitted by January 1, 1999, and forward with that plan to the general assembly any critique thereof or recommendations which the council may adopt by majority vote of its members;

(3) Review any subsequent changes to the Long-Term Care Services Plan; and

(4) Review all proposed regulations which may affect the Long-Term Care Services Plan for the State of Tennessee.

(e) The plan submitted by the governor to the general assembly by January 1, 1999, as well as any recommendations made by the Long-Term Care Services Advisory Council, shall be consistent with the following principles:

(1) Long-term care programs and services should enhance independence, dignity, choice, and individual well-being.

(2) Elderly and disabled Tennesseans will receive the care and services which are most appropriate for their needs and aspirations.

(3) Long-term care services should be provided at the most economical cost and in the least restrictive setting.

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(4) Funding for long-term care services should follow the consumer regardless of delivery method utilized, and without regard to whether such services are categorized as medical care.

(5) Appropriate consumer safeguards, including quality of care standards, should be instituted as part of the home-and community-based services system.

(6) Long-term care policy should foster wellness and prevention.

(7) Long-term care policy should be coordinated with TennCare and Medicare acute care services in a rational and financially prudent manner.

(8) State long-term care policy should make maximum use of available public funding, including federal financial assistance.

(9) In any HCBS waiver there should be a single point of entry for case management services in each geographical region where persons in need of long-term care can obtain case management services for the purpose of helping them assess their needs, assisting them in developing a plan of services, and referring them to providers who are qualified to implement the plan of services.

(10) Case managers should not also be service providers for their clients.

(11) Case management should seek to maximize the use of voluntary and existing services.

(12) Long-term care services should be available on the basis of functional need, rather than on the basis of age, diagnosis or other arbitrary criteria unrelated to individual capacity and need.

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(13) The commission on aging should act as a clearinghouse that collects and analyzes data from the agency in each geographical region. On the basis of such data and analysis, the commission should at least annually, make a report and recommendations to the Long-Term Care Services Advisory Council, the speakers of each house of the general assembly and the governor, regarding the amount and type of long-term care services needed in each geographical region.

(14) The commissioner of health, in consultation with the commissioner of human services the executive director of the commission on aging and consumer and advocacy organizations representing the elderly and person with disabilities, should develop standards of care to ensure quality and protect consumers of home-and-community-based services.

SECTION 5. In the 1998-1999 fiscal year any funds appropriated to implement the provisions of this act shall be expended by the department of health to enhance services related to home and community based care. Any recurring funds appropriated in fiscal year 1999-2000 and any subsequent fiscal year to implement the provisions of this act shall be available for funding home and community based services (HCBS) on a statewide basis under any Section 1915(c) waiver which the state may receive and/or any additional waiver programs developed as a part of the Long-Term Care Services Plan.

SECTION 6. (a) The commissioner of health is authorized to promulgate rules and regulations to effectuate the purposes of this act. All such rules and regulations shall be promulgated in consultation with the commissioner of human services and director of the

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commission on aging and the Long-Term Care Services Advisory Council in accordance with the provisions of Tennessee Code Annotated, Title 4, Chapter 5.

(b) For purposes of oversight, the department of health shall report progress on establishing a home-and community-based services system to the appropriate standing and/or oversight committees by February 1 of each year.

SECTION 7. Nothing in this act shall be construed to alter any existing waiver or program of home- and community-based services for persons with mental retardation or developmental disabilities, or to conflict with any court order relating to services for such individuals. However, it is the intent of the general assembly to encourage the coordination of home- and community-based services across the entire spectrum of age and diagnosis or type of disability, to the maximum extent possible without altering existing waiver programs or court-ordered services for persons with mental retardation or developmental disabilities.

SECTION 8. This act shall take effect upon becoming law, the public welfare requiring it.

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